

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA**

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Karenza Clincy, Erica Hammond,  
Jammie Parker, Kiesha Pough,  
Kimberly Jordan, Naturee Wells,  
Monica Leaphart, and Summer Sales,  
Individually and on behalf of others similarly situated,

Plaintiffs,

**DECLARATION OF  
DONALD H. NICHOLS**

v.

Galardi South Enterprises, Inc. d/b/a/ The Onyx,  
Galardi South Enterprises Consulting, Inc. d/b/a/ The Onyx,  
Michael Kapp and  
Jack Galardi,

Defendants.

Court File No. 09-CV-2082-RWS

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**DECLARATION OF DONALD H. NICHOLS**

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1. My name is Donald H. Nichols. I am over the age of 18 and competent to testify to the matters set forth in this declaration. I make this declaration based on my own personal knowledge.

2. I am a partner with the law firm of Nichols Kaster and am counsel of record in the above-captioned case.

3. The law firm of Nichols Kaster has two offices; one in San Francisco, California, and one in Minneapolis, Minnesota. The firm currently has five (5) partners and seventeen (17) associates, all of whom practice in the limited realm of

employment law. The firm's history dates back to 1974 when I first opened my law practice. The firm has been practicing employment law for 25 years and has represented employees almost exclusively for the past 15 years. Since the year 2000, a substantial portion of the firm's practice has been the representation of employees in class and collective action litigation. The firm has represented well over 25,000 employees in class and collective actions. The firm is currently counsel of record in more than 50 class or collective actions nationwide.

4. I founded what is now Nichols Kaster in 1974. I am licensed to practice law in Minnesota and New York. I have tried over 100 cases to verdict. Since the year 2000, I have concentrated my practice on representing employees in class and collective actions. I am a member of the American College of Trial Lawyers. I have consistently been named a "Super Lawyer," and one of the "Top 40 Employment Law Lawyers" in Minnesota. I have lectured across the country on a variety of topics including electronic discovery, class action litigation strategies, wage and hour litigation, and recent developments in employment law.

5. In the course of Nichols Kaster's work on collective action cases under the FLSA the firm, under my personal direction, has developed a comprehensive and systematic approach to sending court-directed notice. The first thing our firm does upon receiving a list of members is to run the addresses through a software program called Verimove which our firm purchased from Pitney Bowes. Information on Verimove: <http://www.pb.com/cgi-bin/pb.dll/jsp/ProductDetail.do?lang=en&country=US&prodOID=28776&catOID=-22478> which has been printed and attached to this Affidavit as Exhibit A.

6. Verimove performs two comparisons to ensure the validity and accuracy of the addresses provided by the Defendant. First, Verimove compares the addresses provided for members of the collective with a list maintained by the United States Postal Service of all verifiable addresses (the CASS database).

Information on the CASS database can be found on the United States Postal Service's website and is attached as Exhibit B. <http://www.usps.com/ncsc/addressservices/certprograms/cass.htm>. Essentially, the CASS database is designed by the United States Postal service to verify the validity of a given address. This particular database does not allow one to verify that a given address is correct for a given individual, but rather that the address itself is recognized by the Postal Service, i.e. that the street exists in the particular zip code, etc.

7. The second function Verimove performs is that it compares the list provided by Defendants to the National Change of Address database. This database is designed to make change-of-address information available to mailers to help reduce undeliverable mail pieces before mail enters the mailstream. More information on this database can be found on the United States Postal Service website at <http://www.usps.com/ncsc/addressservices/moveupdate/changeaddress.htm>. A copy of this webpage is attached to this declaration as Exhibit C.

8. In every instance that we have used this database in accordance with a list produced by a Defendant, some addresses provided have turned out to be invalid.

9. After identifying addresses which are not valid, our firm then undertakes to find correct address information for those individuals. In order to accomplish this task, we use a variety of internet based search tools to locate the individuals whose mail was returned. One primary tool that we employ in this process is a subscription-based database called Accurint which is part of a service provided by Lexis Nexis. Accurint allows parties involved in litigation to search for given individuals by name and a variety of other identifying information. Perhaps the two most successful pieces of information, in addition to name and

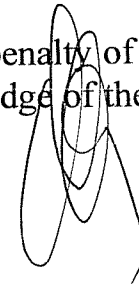
address, that can be used to locate individuals on Accurint are individuals' dates of birth and the last four digits of an individual's social security number. A copy of the search screen on Accurint is attached to this Affidavit as Exhibit D.

10. Even after undertaking to ensure that the mail which is initially sent out is addressed in such a way as to include only current accurate addresses, some mail is inevitably returned. For individuals' whose initial notices are returned to us by mail, we undertake to locate those individuals using the same process discussed in Paragraph 9 of this declaration.

11. It is my opinion that access to information on individuals' dates of birth and the last four digits of their social security number is important to ensure our firm's ability to send accurate and timely notice because that information allows us to locate people who we might not otherwise be able to find.

I declare, under 28 U.S.C. § 1746 and under the penalty of perjury, that the above is true and correct and that I have personal knowledge of the facts contained in this Declaration.

Dated: \_\_\_\_\_



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Donald H. Nichols